

## **REMARKS**

### **I. Summary of Office Action**

Claims 1-21 are pending in the application.

Claims 1-2 and 16-21 were rejected by the Examiner under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,870,564 to Jensen et al. (hereinafter, "Jensen"). The Examiner also rejected claims 3-7 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Jensen in view of U.S. Patent No. 6,490,451 to Denman et. al (hereinafter, "Denman"). Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jensen in view of U.S. Patent No. 6,622,157 to Heddaya et al. (hereinafter, "Heddaya"). And claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Jensen in view of Denman and U.S. Patent No. 6,542,758 to Chennakeshu et. al (hereinafter, "Chennakeshu").

### **II. Summary of Applicants' Reply**

Claims 1, 3, 8, 11, 16, and 18 have been amended. Amendments to the claims are being made solely to expedite prosecution or correct obvious typographical errors, and do not constitute acquiescence to any of the Examiner's objects to or rejections of the claims. Support for the amendment to the claims can be found throughout the present application. Applicants reserve the right to prosecute the subject matter of any claim that was amended in one or more continuation, continuation-in-part, or divisional applications.

The Examiner's rejections of claims 1-21 under 35 U.S.C. §§ 102(b) and 103(a) are respectfully traversed.

Reconsideration of this application is respectfully requested.

### **III. Interview Summary**

On March 8, 2007, in connection with Application No. 09/775,350, the undersigned conducted a telephonic interview with the Examiner to discuss a proposed claim amendment in that case and the Examiner's support for the alleged showing of "coordinate labels" in Jensen. Applicants thank the Examiner for his courtesy in taking the time to conduct this telephonic interview.

**IV. The Rejections of the Claims Under 35 U.S.C. §§ 102(b) and 103(a)**

“It is by now well settled that the burden of establishing a *prima facie* case of anticipation resides with the Patent and Trademark Office.” Ex Parte James R. Skinner, 2 USPQ2d 1788 (B.P.A.I. 1986).

“To anticipate, **every element and limitation** of the claimed invention must be found in a single prior art reference, arranged as in the claim.” Brown v. 3M, 265 F.3d 1349, 60 USPQ2d 1375 (Fed. Cir. 2001) (emphasis added).

“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. **The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.**” 37 C.F.R. § 1.104(c)(2) (emphasis added).

For at least the reasons set forth below, Applicants respectfully submit that in rejecting the claims, the Examiner has failed to meet his burden. Not only do the rejections fail to make out a *prima facie* case of anticipation, they also fail to address “every element and limitation” of the claims and fail to clearly explain the pertinence of each reference.

Applicants’ claims 1-15 are directed to networks comprising a plurality of Nodes interconnected by Links. Among other things, claims 1-15, as amended, include that:

(a) each Node is assigned a set of one or more coordinate labels, each of said coordinate labels representing a path comprising one or more Links, and each of said coordinate labels including at least one label that each identify a corresponding one of said one or more Links in said path; [and]

(c) a path between a first Node and a second Node that includes at least a third Node between said first Node and said second Node being determined by combining at least one of said at least one label of one of said coordinate labels assigned to said first Node and at least one of said at least one label of one of said coordinate labels assigned to said second Node.

Element (a)

In rejecting independent claims 1, 3, 8, and 11, the Examiner stated that:

each Node is assigned a set of one or more coordinate labels, each representing a path comprising one or more Links or other Nodes (abstract; column 6, line 65-

column 7, line 8: mathematical nodes, edges in Cartesian grid; column 7, lines 52-63; column 8, lines 9-13 and 42-46: potential paths; column 18, lines 19-34: On the other hand, the granule 176b along with its edge 178b and underlying or previous granule 172a remain in consideration for inclusion in a potential path, by virtue of the favorable potential edges 182c, 182d, and 182e.)

Office Action, page 2, line 20 through page 3, line 2 (addressing claim 1), page 7, line 20 through page 8, line 1 (addressing claim 3), page 11, lines 11-17 (addressing claim 8), and page 9, line 19 through page 10, line 2 (addressing claim 11).

Although the Examiner points to (1) the abstract, (2) column 6, line 65 through column 7, line 8, (3) column 8, lines 9-13 and 42-46, and (4) column 18, lines 19-34, it is not clear exactly what the Examiner is asserting within these four sections as showing “coordinate labels” as recited in the claims. While these various sections mention networks, nodes or granules, edges, a Cartesian grid, and paths, the Examiner has provided no indication of where in the sections there is any disclosure or suggestion that any form of labels, let alone coordinate labels as described in the claims, are used in connection with the described nodes. Rather, in violation of 37 C.F.R. § 1.104(c)(2), the Examiner has simply compiled a disjointed list of features of Jensen without providing any indication as to how they relate to the claim element being asserted by the Examiner as being disclosed by the reference.

During the telephonic interview conducted in connection with Application No. 09/775,350, the Examiner argued that Cartesian coordinates are allegedly suggested by the mention of a Cartesian grid in Jensen, and that such Cartesian coordinates show the coordinate labels recited in the claims. The Examiner did not offer any explanation of how such Cartesian coordinates would perform the aspects of the coordinate labels clearly recited in the claims. Instead, the Examiner simply said that anyone looking at these passages would understand that they show the claimed coordinate labels. Once again, these sorts of blanket, unsupported assertions are inadequate to meet the Examiner’s burden of establishing a *prima facie* rejection under 37 C.F.R. § 1.104(c)(2). It is the Examiner’s burden to establish how “every element and limitation” of the claimed invention is found in a single prior art reference, arranged as in the claim. Anything short of this is an improper rejection.

In any event, contrary to the Examiner’s assertions, any Cartesian coordinates allegedly shown in Jensen clearly do not disclose or suggest that “each Node is assigned a set of one or more coordinate labels, each representing a path comprising one or more Links or other Nodes,” as recited in the claims prior to amendment. Rather, Cartesian coordinates simply represent a

point in a Cartesian grid. Nothing in Cartesian coordinates represents “a path,” let alone “a path comprising one or more Links or other Nodes.”

Moreover, the claims as amended further distinguish the coordinate labels recited in the claims from Cartesian coordinates. For example, as set forth in the claims “each of said coordinate labels includ[es] at least one label that each identify a corresponding one of said one or more Links in said path.” Cartesian coordinates do not include any labels that identify a link in a path. Rather, Cartesian coordinates simply have two or more numbers that represent a point in the Cartesian space relative to some origin.

Accordingly, for at least these reasons, the Examiner’s rejections are improper and should be withdrawn.

Element (c)

Also in rejecting independent claims 1, 3, 8, and 11, the Examiner stated that:

a path between a first Node and a second Node that includes at least a third Node between said first Node and said second Node being determined from one of said coordinate labels assigned to said first Node and one of said coordinate labels assigned to said second Node (column 4, lines 25-44: determining an improved path, evaluate a path segment by assessing the benefit of a net path including the path segment and a potential future path segment depending on the path segment, where a path segment is an edge between adjacent granules in a network, and wherein all costs, distances, measures, metrics, capacities, and the like, along a path between the adjacent granules are associated with the edge there between; column 6, line 65-column 7, line 17: mathematical nodes, edges in Cartesian grid, distance parameter, topology).

Office Action, page 3, lines 6-16 (addressing claim 1), page 8, lines 5-15 (addressing claim 3), page 11, line 21 through page 12, line 9 (addressing claim 8), and page 10, lines 7-17 (addressing claim 11).

While the Examiner has once again pointed to several different portions of Jensen, none of these portions disclose or suggest “a path ... being determined from one of said coordinate labels assigned to said first Node and one of said coordinate labels assigned to said second Node.” Rather, column 4, lines 25-44 simply sets out objectives of Jensen to “determin[e] an improved path ... using an advancing wavefront” (Jensen, column 4, lines 26-33) and “managing a network using an advancing wavefront” (Jensen, column 4, lines 34-44). Neither of these passages in Jensen disclose or suggest using coordinate labels to determine a path.

Likewise, column 6, line 65 through column 7, line 17 also does not disclose or suggest determining a path from coordinate labels. Instead this passage simply mentions that connections between mathematical nodes may be characterized as mathematical edges. Even if this portion of Jensen were to disclose Cartesian coordinates as asserted by the Examiner, and even if those Cartesian coordinates were coordinate labels (which they clearly are not as set forth above), it still completely fails to disclose or suggest determining a path in any way as recited by the claims.

Moreover, the Examiner's assertions do not provide any support for an argument that this portion of Jensen shows "a path ... being determined from one of said coordinate labels assigned to said first Node and one of said coordinate labels assigned to said second Node." In fact, the Examiner's assertions completely fail to specify what in Jensen are the alleged coordinate labels and how those alleged coordinate labels are used to determine a path. Instead, the Examiner simply mentions disjointed portions of Jensen without providing an indication of how they show or suggest the corresponding claim limitations in violation of 37 C.F.R. § 1.104(c)(2).

Furthermore, the claims as amended additionally distinguish over Jensen. As amended, the claims recite "a path ... being determined by combining at least one of said at least one label of one of said coordinate labels assigned to said first Node and at least one of said at least one label of one of said coordinate labels assigned to said second Node." In addition to not disclosing or suggesting determining a path from coordinate labels, Jensen also fails to disclose or suggest determining a path by combining labels as recited in the claims. For example, nowhere in Jensen is there any disclosure or suggestion that Cartesian coordinates, or anything else for that matter, are combined together to determine a path.

Accordingly, for at least the reasons set forth above, Jensen neither discloses nor suggests:

(a) each Node is assigned a set of one or more coordinate labels, each of said coordinate labels representing a path comprising one or more Links, and each of said coordinate labels including at least one label that each identify a corresponding one of said one or more Links in said path;

or

(c) a path between a first Node and a second Node that includes at least a third Node between said first Node and said second Node being

determined by combining at least one of said at least one label of one of said coordinate labels assigned to said first Node and at least one of said at least one label of one of said coordinate labels assigned to said second Node.

Therefore, Jensen cannot and does not disclose or suggest a network comprising a plurality of Nodes interconnected by Links, wherein:

- (a) each Node is assigned a set of one or more coordinate labels, each of said coordinate labels representing a path comprising one or more Links, and each of said coordinate labels including at least one label that each identify a corresponding one of said one or more Links in said path;
- (b) each coordinate label is unique to the Node to which it is assigned;
- (c) a path between a first Node and a second Node that includes at least a third Node between said first Node and said second Node being determined by combining at least one of said at least one label of one of said coordinate labels assigned to said first Node and at least one of said at least one label of one of said coordinate labels assigned to said second Node; and
- (d) said first Node stores the set of one or more coordinate labels.

as claimed in independent claim 1. Independent claim 1 is, therefore, allowable.

Similarly, the combinations of elements in independent claims 3, 8, and 11, which also include elements (a) and (c), are also not disclosed or suggested by Jensen for at least the same reasons that independent claim 1 is not disclosed or suggested. Independent claims 3, 8, and 11 are, therefore, allowable.

Also, the combinations of elements in independent claims 16 and 18 are not disclosed or suggested by Jensen for at least the same reasons that claims 1, 3, 8, and 11 are not disclosed or suggested. For example, claim 16 includes “each coordinate label representing a path comprising one or more Links ... , and each of said coordinate labels including at least one label that each identify a corresponding one of said one or more Links in said path” and “determining a path ... by combining at least one of said at least one label of one coordinate label of said source Node and at least one of said at least one label of one coordinate label of said destination Node.” As another example, claim 18 includes “each coordinate label representing a path comprising one or more Links ... , [and] each of said coordinate labels including a label that identifies each of said one or more Links in said path” and “a path [being] determined by combining at least one of said at least one label of one of said coordinate labels assigned to said Node and at least one of said at least one label of one of said coordinate labels assigned to said destination Node.” Independent claims 16 and 18 are, therefore, allowable.

Applicants also respectfully submit that claims 2, 4-7, 9, 10, 12-15, 17, and 19-21, each of which depends on one of independent claims 1, 3, 8, 11, 16, and 18 are allowable for at least the same reasons that their corresponding independent claims are allowable.

Accordingly, applicants respectfully request that the rejections of the claims under 35 U.S.C. § 102(b) and 103 be withdrawn.

**V. Deposit Account Authorization**

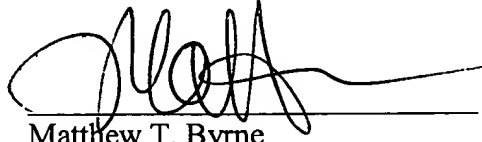
The Director is hereby authorized to charge any fees that may be due, or to credit any overpayment of the same, to Deposit Account No. 08-0219.

In the event that any extension of time is required in addition to that requested in any petition for extension of time filed previously or herewith, the Director is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 08-0219.

**VI. Conclusion**

For at least the reasons set forth above, Applicants respectfully submit that the present application, as amended, is in condition for allowance. Reconsideration and prompt allowance of the application are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Matthew T. Byrne', is written over a horizontal line.

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